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February 9, 2021

**VIA ELECTRONIC FILING**

The Honorable Jocelyn Boyd  
Chief Clerk/Executive Director  
The Public Service Commission of South Carolina  
101 Executive Center Drive  
Columbia, South Carolina 29210

RE: Docket 2020-247-A  
Workshops Regarding the Public Service Commission's Formal Review of Its  
Regulations Pursuant to S.C. Code Ann. Section 1-23-120(J)  
**Department of Consumer Affairs Comments on PSC Practice and Procedure**

Dear Ms. Boyd:

Pursuant to the December 20, 2020 Amended Notice, the Department of Consumer Affairs is submitting comments on S.C. Code Ann. Regs. 103-800 *et seq.* and notifying the Commission of its intent to participate in the February 19, 2021 workshop. The Department appreciates this opportunity and looks forward to further discussing these important issues with the Commission and other interested parties.

**Background**

In South Carolina, pursuant to S.C. Code Ann. 58-5-240(C), the Commission must issue an order within 6 months after the filing of an application for an adjustment of rates. Utilities have months or even years to prepare their filing. The Office of Regulatory Staff ("ORS") has the ability to audit companies and request documents before a filing. Other parties do not have these abilities and therefore, are at an extreme time disadvantage when requesting, receiving, reviewing, and responding to a company's application and associated calculations and supporting documents.

Currently, the substantive requirements for a filing are limited, and primarily found in S.C. Code Ann. Regs. 103-823(A)(3), which states:

The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

- (a) Balance sheet;
- (b) Profit and loss statement;
- (c) Accounting and pro forma adjustments;
- (d) Computation of proposed increase or decrease;
- (e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;
- (f) Statement of fixed assets and depreciation reserve;
- (g) Rates of return on rate base and on common equity.

The Commission's regulations do not require companies to submit relevant workpapers and other supporting documentation that would allow other parties to independently analyze and verify the various figures, calculations, and requests of the companies. These supporting documents are typically requested and provided during the discovery process, after the application has been filed and the 6-month clock has started.

Further, companies typically do not file direct testimony for several weeks after the application and, pursuant to the current regulations, companies have 20 days to respond to discovery requests. Therefore, 1 to 2 months may pass before a party has determined and received relevant discovery documents which will help it prepare its testimony and case. This timeframe assumes the company does not object to a discovery request and has provided its responses in a manner sufficient for the party to assess them.

Given the short time in which the Commission is statutorily required to issue its order, the Department recommends the regulations require, and specifically prescribe, additional documentation to be submitted at the time of an application. Additionally, given the number of proceedings reviewed by the Commission, a uniform format for applications and the submission of data would benefit the Commission, parties, and consumers.

### Recommendations

1) **A company must file its direct testimony at the same time as its application.** As noted above, utilities have months or even years to prepare their applications for filing. Therefore, companies should have testimony already prepared at the time of filing. Filing testimony with the application will eliminate an unnecessary delay and provide additional time for other parties to review these documents. It would also allow additional time in scheduling for the hearing and proposed orders, as well as preparation of the final order by the Commission.

The following are examples of the unnecessary delays created by not filing direct testimony with the application:

- Docket 2020-125-E - Dominion Energy South Carolina ("DESC") filed its application for adjustment of rates on August 14, 2020; the Commission issued a schedule on August 21 which provided for DESC to submit its direct testimony by September 4, 2020, nearly three

(3) weeks after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by February 21, 2021.

- Docket 2019-290-WS – Blue Granite Water Company (“BGWC”) filed its application for adjustment of rates on October 2, 2019; the Commission issued a schedule on October 23, 2019 which provided for BGWC to submit its direct testimony by December 30, 2019, nearly three (3) months after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by April 2, 2020.
- Docket 2019-281-S – Palmetto Utilities Inc. (“PUI”) filed its application for adjustment of rates on November 27, 2019; the Commission issued a schedule on December 13, 2019 which provided for PUI to submit its direct testimony by March 3, 2020, over three (3) months after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by May 27, 2020.

2) **A company must submit with its application all supporting documents, including studies, models, workpapers, spreadsheets, tables, formulas, and data that support its requests.** For this requirement to be fully beneficial, the information should be presented in its native format with all formulas intact and unlocked. As noted previously, providing this information with the application will avoid unnecessary delays during the discovery process. Further, it will provide for a more open and thorough review of all relevant information. Without this information, particularly the workpapers and models with intact formulas, there is no way for a party, and therefore the Commission, to verify the calculations and assumptions submitted by the company in support of its positions and requests.

These are all items that should exist at the time of filing, do not require a company to produce anything beyond what has already been relied on to support its application, and are typically requested and produced during discovery. However, if the company relies upon proprietary information in its application, the Commission should also require this information be available to all parties.

3) **Require uniform formatting of the application and schedules and a brief summary of the application.** Current applications are confusing to most consumers. This is not only due to the complex subject matter of these proceedings, but also the length of the filings and complicated tables and charts that accompany them. While it is necessary for utilities to provide an abundance of data and information, customers should not have to interpret it all to understand the basic reasoning behind the company's requests. Additionally, parties should be able to locate information more readily.

By providing a uniform list of schedules, the Commission could ensure that, for any filing, the same information is located in the same schedule, thereby saving all parties time in review. Further, providing a clearer synopsis of all relevant information in a standardized format would lead to better understanding of the requests by consumers. This synopsis should include the use of bullets and tables, as opposed to a complex narrative, and be incorporated into the Commission's Notice of Filing that is prepared for each case.

4) **All pleadings and testimony should be in word or searchable pdf format, as applicable.** For the sake of uniformity, as well as ease of review, the Commission should require these or similar formats for all applicable documents (e.g., spreadsheets would be submitted in excel). Most parties already comply with this recommendation. However, occasionally, documents are submitted as scanned pdfs, or are otherwise not searchable. In these instances, other parties must have the ability to convert the documents to a searchable format. The ability to search a document is invaluable in utility rate cases, particularly those involving dozens of witnesses and thousands of pages of pleadings and testimony. Without this ability, tremendous time is lost and valuable information can be overlooked.

5) **Increase the maximum number of interrogatories, shorten the time for utilities to respond to discovery, and make responses available to all parties.** Regulation 103-833 currently provides for the submission of written interrogatories and requests for production. The regulation requires responses within 20 days. Regulation 103-835 provides “[t]he S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations.” SCRC 33(b)(9) limits interrogatories to 50 questions “except by leave of court upon good cause shown.” While the previous recommendations are designed to limit the need for discovery, due to the complexity of utility cases, parties should not be limited in their discovery. Further, allowing 20 days for the company to respond to discovery requests impacts the ability of other parties to formulate testimony, particularly between rebuttal and surrebuttal when timeframes are often shortened.

Utilities have months to prepare filings and the answers to discovery questions should be readily available in most instances. In the event additional time is needed or the number of discovery requests becomes overly burdensome, existing discovery rules and Commission regulations are sufficient to address the concerns. Finally, providing all discovery responses to all parties could also save time and effort for the utility. This information could be provided electronically on a website without the need for mailing.

### Summary

The Department believes the recommendations discussed above will provide efficiency and uniformity to rate case proceedings and result in more thorough, informed hearings and final orders. Many states have adopted “Minimum Filing Requirements” or “Standard Filing Requirements” which demonstrate these proposed recommendations. Included with this letter, the Department has provided rules and regulations (or portions thereof) from various states that require parameters similar to those suggested herein. Certain provisions that relate to the Department’s comments have been highlighted and notes have been added to indicate the applicable Department recommendation. The Department does not imply that the Commission should adopt all of the language or methods included in the exhibits. These examples, rather, are provided to both demonstrate that other states have recognized the importance of gathering specific information from regulated utilities at the inception of the ratemaking process and to give the Commission an idea of the various ways the requirements can be implemented.

- Exhibit 1- Arkansas Rule 4.08 (Evidence), 8.08 (Information Required at Filing of General Rate Change Application), and 8.09 (Filing Instructions); and Appendices 8-1 (Minimum Filing Requirements) and 8-1A-Electric (Index of Schedules)
- Exhibit 2 – Florida. Minimum Filing Requirements for Investor-Owned Electric Utilities (Form PSC 1026) Also available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12642> Florida Regulation 25-6.043(1)(h) requires these spreadsheets to be submitted “in Microsoft Excel format with formulas intact and unlocked”.
- Exhibit 3- North Carolina. Rule R1-17 and Form E-1. Also available at <https://www.ncuc.net/ncrules/ncucrules.pdf> and <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=2811c0ff-223a-4542-99b5-bc81eb633ad3>
- Exhibit 4- Utah. Rule R746-700. Complete Filings for General Rate Case and Major Plant Addition Applications. Also available at <https://rules.utah.gov/publicat/code/r746/r746-700.htm>
- Exhibit 5- Connecticut. Standard Filing Requirements for Large Public Utility Companies. Provided to demonstrate the detailed requirements and schedules for any “public service company with 50,000 or more customers, or jurisdictional gross revenues in excess of ten million dollars (\$10,000,000).”

For additional examples of states with detailed filing requirements that include uniform schedule submittals see:

- Montana’s Minimum Rate Case Filing Standards for Electric, Gas, and Private Water Utilities. Available at <http://www.mtrules.org/gateway/chapterhome.asp?chapter=38%2E5>
- The Illinois Standard Information Requirements for Public Utilities and Telecommunications Carriers in Filing For An Increase In Rates. Available at <https://www.ilga.gov/commission/jcar/admincode/083/08300285sections.html>

The Department appreciates the opportunity to participate in this process and we hope you find this information helpful. Please let me know if we can be of any further assistance, including to provide additional examples, proposals, or other desired information.

Regards,



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Assistant Consumer Advocate